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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re AMANDA V., a Person Coming
Under the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

RAUL V.,

Defendant and Appellant.

G034300

(Super. Ct. No. DP010179)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County,
Donna L. Crandall, Judge. Affirmed.

Michael D. Randall, under appointment by the Court of Appeal, for
Defendant and Appellant.

Benjamin P. de Mayo, County Counsel, and Saul Reyes, Deputy
County Counsel, for Plaintiff and Respondent.

Raul V. (father) appeals from a judgment of the juvenile court, challenging the jurisdictional findings and dispositional orders regarding his now 15-year-old daughter, Amanda V. Father contends there is insufficient evidence to sustain the allegations of the dependency petition and claims the court improperly delegated to Amanda complete discretion to determine whether or not she would participate in conjoint counseling with father or allow visits to take place. We reject these contentions and affirm the judgment.

FACTS

For our analysis of this sufficiency-of-evidence challenge, only a brief recitation of facts is required. On about May 5, 2004, Amanda, then 14 years old, ran away from home. She stayed with friends, moving from place to place until May 17, when her father learned where she was and sent the police to hold her until his arrival. When Amanda said she was afraid to go home due to father's physical abuse, the police notified Orange County Social Services Agency (SSA).

Following an investigation, SSA filed a dependency petition under Welfare and Institutions Code section 300,¹ subdivisions (b) and (g), alleging the precipitating event — father “struck the child in the face four to five times with an open hand, resulting in red marks, and causing the child great pain and suffering” — and other physical and emotional abuse, such as: “On an unspecified date in late 2003, the father kicked the child, Amanda, and strangled her several times, causing the child to suffer great pain and fear”; “On numerous unspecified occasions, the father has hit the child, Amanda, resulting in red marks and sometimes bruising to the child, causing the child great pain and placing the child

¹ All further statutory references are to the Welfare and Institutions Code.

at risk of injury”; “On numerous unspecified occasions, the father has called the child names such as stupid, bitch and a shit, causing the child to be sad and cry, which is detrimental to the child’s emotional wellbeing.” The petition further alleged the mother’s absence, father’s problem with alcohol, the child’s fear of father, her consequent refusal to return home, and the unavailability of shelter care due to Amanda’s “lack of willingness to participate in . . . programs where she would need to have contact with her father.”²

Father denied everything, saying the child ran away to be with a boy with whom, father suspected, Amanda was having sex. At the jurisdictional and dispositional hearing, the court found Amanda to be “sincere, fairly articulate and quite a credible witness.” On the other hand, it noted father’s own attorney had not even mentioned father’s testimony in his lengthy closing argument, no doubt because father “was probably the most difficult witness on the witness stand that this court has ever seen, in terms of his rigidity, his desire to control the proceedings, [and] his refusal to follow the rules,” which “significantly reduce[d] his credibility in the court’s opinion.” Concluding Amanda was at risk if left with father, the court sustained most of the allegations of the amended petition, declared Amanda a dependent child of the court, and, there being no suitable relatives to care for the child, ordered her placed with a foster family with whom she continues to live.

² The petition also alleged Amanda was left without any provision for support under section 300, subdivision (g). But SSA concedes that because father wanted Amanda returned to his custody, there is not sufficient evidence to sustain the allegations. We affirm the judgment on other grounds, so there is no need for us to discuss the (g) count. (*In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875.)

DISCUSSION

Father contends no substantial evidence supports the jurisdictional findings and the court abused its discretion in allowing Amanda to decline parental visits and conjoint counseling. We disagree.

Sufficiency of the Evidence

The court's exercise of jurisdiction under section 300, subdivision (b) was based on true findings as to allegations, inter alia, of the slapping incident, physical abuse prior to that time, verbal abuse detrimental to the child's emotional well being, Amanda's fear of her father, and her refusal to return to his custody.

"The issue of sufficiency of the evidence in dependency cases is governed by the same rules that apply to all appeals. If, on the entire record, there is substantial evidence to support the findings of the juvenile court, we uphold those findings. [Citation.] We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or evaluate the weight of the evidence. Rather, we draw all reasonable inferences in support of the findings, view the record most favorably to the juvenile court's order, and affirm the order even if other evidence supports a contrary conclusion. [Citation.] The appellant has the burden of showing the finding or order is not supported by substantial evidence." (*In re Megan S.* (2002) 104 Cal.App.4th 247, 250-251.) The testimony of a single witness is enough to satisfy the test of substantial evidence. (*Las Palmas Associates v. Las Palmas Center Associates* (1991) 235 Cal.App.3d 1220, 1239.)

Here, Amanda testified that on May 3, 2004, father slapped her in the face repeatedly, leaving red marks on her ear and cheek, and causing her pain. She said father had physically abused her on other prior unspecified dates and called her "[s]tupid,' 'dumb ass' and 'bitch' and stuff like that." She was afraid

of father because “[h]e’s very intimidating and very powerful, and [abusive].” Amanda further testified she and her father had never gotten along well, but things had become “more intense” lately, and father had told her that if she ever tried calling the police on him, “he would make it look like it was [Amanda’s] defiance.” She wanted to get away from father because of the impact the situation was having on her emotions and her performance at school. She described herself as “[j]ust really depressed.” She did not believe her father loved her, and she did not want to go back home because she was “just sick of having to deal with that.”

Father denies any inappropriate parenting, but argues that in any event, slapping, hitting, and name-calling do not rise to the level of maltreatment needed for dependency jurisdiction. He claims the name-calling was of little consequence, and the slapping, while perhaps “unpleasant,” did not result in serious physical harm or injury. Moreover, he asserts there was no evidence the conduct would be repeated, thus there was no evidence of risk existing at the time of the hearing. We do not share father’s view.

It is true a child shall continue as a dependent of the juvenile court under section 300, subdivision (b) “only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.” (§ 300, subd. (b).) But, as is the case with nonaccidental infliction of injury, ““a court may find there is a substantial risk of serious future injury based on the manner in which a less serious injury was inflicted, a history or repeated inflictions of injuries on the minor or the minor’s siblings, or a combination of these and other actions by the parent or guardian which indicate the child is at risk of serious physical harm.”” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 823.) Here, the findings of recent and past physical abuse causing red marks, bruising, and pain, coupled with the findings of Amanda’s fear, provide substantial evidence of present and future risk. A further significant factor is father’s insistence that it is Amanda who needs fixing, and he

bears no responsibility for creating the conditions giving rise to the dependency.³ We have no difficulty concluding substantial evidence supports the court's findings and those findings provide a legally sufficient basis for jurisdiction.

The Conjoint Counseling Order

Father contends the court impermissibly gave Amanda "unlimited discretion to determine when conjoint therapy would occur." Factually, that's not what happened. Rather, the court stated, "The conjoint counseling will begin at such a time as [Amanda's] individual therapist deems it to be appropriate and . . . [Amanda] is willing to do so." It then made an order adopting and incorporating SSA's recommendation that Amanda "will participate in individual, . . . conjoint therapy Frequency of counseling is to be determined by the assigned social worker in consultation with the therapist." This is a far cry from placing the decision at Amanda's whim.

Moreover, we find no clear abuse of the court's very extensive discretion to impose conditions it perceives to be in the child's best interests. (See, e.g., *In re Eric B.* (1987) 189 Cal.App.3d 996, 1005.) As father correctly observes, family preservation is of the highest priority in juvenile dependency proceedings (*In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1787), and to meet that important goal, a reunification service plan must respond to the needs of the family in question. (*Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1010; *In re Edward C.* (1981) 126 Cal.App.3d 193, 205 [the service plan "must be

³ Father testified he accepted no responsibility for Amanda running away. He said he had never struck Amanda and did not call her names. He said he needed no help in any aspect of parenting. He was not willing to participate in parenting classes unless he was allowed to visit Amanda. He refused to participate in drug or alcohol testing beyond three negative tests he provided at the court's order. He was convinced there was only one reason Amanda left home, and that was to be with the person he called her boyfriend.

appropriate for each family and be based on the unique facts relating to that family”].) Here, the court clearly believed Amanda’s tearful testimony about her fear of her father and her emotionally fragile state of depression. Under these circumstances, and particularly in light of father’s unwillingness to acknowledge or address any of his issues, the court determined that Amanda should not be forced into a potentially disturbing confrontation according to a specific schedule. Indeed, the court stated it was father who “did the wrong in this case” and “who has to demonstrate an ability and a willingness to participate and comply with the case plan before Amanda has to do anything,” but if father decided to participate in his case plan, “then the court would be inclined to perhaps, for lack of a better term, get a little pushier with Amanda.” The order for conjoint counseling, tailor-made for the family’s circumstances, was well within the court’s proper exercise of discretion.

The Visitation Order

Father’s final contention is that the visitation order giving Amanda “unlimited discretion over [father’s] visitation” must be set aside as an unconstitutional abdication of the court’s authority. Once again, father’s rhetoric does not reflect the true spirit of what transpired at the proceeding. The court adopted SSA’s recommended visitation plan, and, recognizing the child’s reluctance, further ordered SSA to “encourage[] [Amanda] to visit with her father and that the initial visit, at least, be in a therapeutic setting. Which would probably involve conjoint therapy.” The visitation plan, in turn, requires the assigned social worker to “facilitate [monitored] visitation between the child and the parent,” authorizes SSA “to liberalize visits as to frequency, duration and need for monitoring” when appropriate, and instructs SSA to “include consideration of the recommendations of involved therapists and family members.” As was the case

with the conjoint therapy order, the visitation order appears to be appropriately custom-designed to assure that father and child will have visitations when both have made sufficient progress in their individual therapy. (See, e.g., *In re Danielle W.* (1989) 207 Cal.App.3d 1227, 1233 [substantial evidence supported an order giving the child services agency *and* the children discretion as to visitation with mother, where the court's greatest concern was with potential adverse emotional and psychological consequences of forced visits, and the evidence showed the children had reason to feel distrustful of and angry with mother].) Father's authorities do not persuade us to a different conclusion.

DISPOSITION

The judgment is affirmed.

IKOLA, J.

WE CONCUR:

SILLS, P.J.

ARONSON, J.